IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Civil Application No.52 of 2007
IN
Family Court Appeal No.28 of 2007
In
M.J. Petition No.A-532 of 2003

Bhagyashree @ Janvi Viren Mistry. .. Applicant/ Appellant (Orig. Respondent)

V/s.

Viren Pramodrai Mistry .. Respondent (Orig. Petitioner)

Mr.Gopal R. Hegde for Applicant/Appellant.

Mr.V.G. Parekh for Respondent.

CORAM : J.N. PATEL &
SMT.R.S. DALVI, JJ.

DATED : 3rd April, 2007

P.C. :

1. This Application is filed for enhancement of maintenance and litigation expenses.

2. The Applicant/Appellant preferred this Appeal impugning the decision dated 5th December 2006 of the Family Court, Mumbai, in which the Family Court granted a decree of divorce and directed the Respondent-husband to pay a sum of Rs.2,000/- per month towards her maintenance with effect from the date of the order i.e. 5.12.2006.

3. At this stage, we do not propose to go into the

merits of the matter but we are considering as to whether the Applicant is entitled for enhancement of maintenance by way of interim relief and litigation expenses in view of the facts which are not disputed by the Respondent who is gainfully employed as Electronics Engineer in the United States. According to the Respondent, he is a trainee. Even accepting this, we find that though the Applicant/Appellant has claimed a sum of Rs.10,000/- towards the maintenance, a sum of Rs.7,000/- will be just and proper in the facts of the given case.

4. Needless to state that maintenance would necessarily include full shelter, cloth, medical expenses and other ancillary expenses which are required for daily use. As the Applicant/Appellant is staying with her parents, a sum of Rs.7,000/- would meet her requirements.

5. In so far as litigation expenses are concerned, though the Applicant/Appellant has spent Rs.25,000/- for the present, we grant a sum of Rs.15,000/- towards initial litigation expenses as the learned Counsel for the Applicant/Appellant is justified in stating that one does not know how much time the matter would take for final disposal.

6. The learned Counsel appearing for the Respondent has raised an issue that initially the Respondent-husband

sent an amount of approximately Rs.Five Lacs for buying a flat at Mira Road and that the Applicant has mis-appropriated the said sum of money for buying consumer durables of electronics items. It is contended that if the Applicant/Appellant would have bought a flat at Mira Road, it would have appreciated that this would also be taken into consideration by the Court and the Applicant/Appellant would be directed to return the money to the Respondent. Such prayer cannot be considered in an Application for enhancement of maintenance and that too by way of interim relief.

7. Taking into consideration the rise in the general level of prices and the price index of daily use and health care, therefore, the Application is allowed. The Respondent-husband is directed to pay a sum of Rs.7,000/- per month towards maintenance to the Applicant-wife from the date of the Application until further orders. The Respondent shall also deposit a sum of Rs.15,000/- in this Court towards the initial expenses of litigation within a period of four weeks. On such amount being deposited, the Applicant-wife would be entitled to withdraw the same after being duly identified by her Advocate.

8. Before we part with this order, the learned Counsel for the Applicant/Appellant has expressed that the Respondent has failed to furnish particulars of his whereabouts i.e.

where he is residing in the United States, in which Company he is working and how much he is earning out of his job. In the Affidavit-in-reply, certain information is furnished. The Applicant-wife can cross check it and she is at liberty to move this Court, if any particulars are required. Further particulars are called for in the matter.

9. Civil Application stands disposed of accordingly.

(J.N. Patel, J.)

(Smt.R.S. Dalvi, J.)